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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)

Working paper prepared by the Secretariat

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I. General

1. The Falkland Islands (Malvinas)[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometres (4,700 square miles). The Territory is situated in the South Atlantic, about 770 kilometres north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are considered a separate Territory and are administered from the Falkland Islands (Malvinas); the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. According to the 2001 census, the population of the Territory is 2,391 (not including an estimated 112 residents temporarily absent and 534 military personnel), up from 2,221 in 1996.

II. Constitutional and political developments

Constitution and Government

2. Detailed information on the Constitution and Government of the Falkland Islands (Malvinas) is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

3. On 10 June 2004, the Government of Argentina issued the following press communiqué:

> "On 10 June, the 'Day of Affirmation of Argentine Rights over the Malvinas Islands and the Antarctic Sector', the Argentine Nation commemorates the creation in 1829 of the Political and Military Command for the Malvinas Islands and islands adjacent to Cape Horn in the Atlantic Ocean, through a decree issued by Brigadier Martín Rodríguez, acting Governor of Buenos Aires province.
>
> Since its inception as an independent nation, the Argentine Republic has demonstrated, through various acts of Government, its firm political will to exercise effective sovereignty over the southern territories and maritime areas that it inherited from Spain.
>
> Through this act the Government of Argentina reaffirmed its legitimate titles over the Islands and sought to ensure respect of the laws so as to protect without any discrimination the activities of the Argentine and non-Argentine population that resided on the Islands. Thus, the institutional framework was established for the subsequent undertakings of the Governor of the Malvinas Islands, D. Luis Vernet.
>
> This effective exercise of sovereignty was interrupted on 3 January 1833, when British forces occupied the Malvinas Islands, expelling the Argentine population and authorities settled there and replacing them with others of British origin.

The people and Government of Argentina never consented to that act of force and today, as in the past, they confirm their permanent and unwavering determination to regain the exercise of sovereignty over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas, through the peaceful path of diplomatic negotiations and in accordance with the many appeals of the international community.

Argentina's claim has traditionally been supported by the countries of our region and by major international and regional organizations, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These forums have repeatedly called on the Governments of the Argentine Republic and the United Kingdom to resume negotiations with a view to resolving the sovereignty dispute in a peaceful and conclusive manner.

On this important date, the Argentine Government reiterates its unwavering sovereignty claim over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas. At the same time, it reaffirms its permanent willingness to resume negotiations with a view to settling as soon as possible and in a just and conclusive manner the still unresolved sovereignty dispute."

4. In a letter dated 8 June 2004 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/58/840), the Permanent Representative transmitted the text of the protest note sent on 8 June 2004 by the Ministry of Foreign Affairs of Argentina to the Embassy of the United Kingdom in Buenos Aires concerning the modifications introduced in the situation of the British military base in the Falkland Islands (Malvinas). The note formally protested "the recent upgrading of the British military base" in the Falkland Islands (Malvinas) and stated that the Argentine Government considered that the protested measure was in violation of General Assembly resolution 31/49, which calls upon the two parties in the dispute to refrain from introducing unilateral modifications in the situation while the islands were going through the process recommended in the relevant resolutions of the General Assembly.

5. In a letter dated 28 July 2004 from the Permanent Representative of the United Kingdom to the United Nations addressed to the Secretary-General (A/58/860), the Permanent Representative informed the Chairman that his Government rejected the contents of the letter of 8 June of the Permanent Representative of Argentina to the Secretary-General, stating that there was no substance to those claims and that "the change in titles to Head Quarters British Forces South Atlantic Islands and Commander British Forces South Atlantic Islands" simply reflected changes in administrative structures. The Permanent Representative stated that there had been no change in the mission or role of the United Kingdom Armed Forces providing security for the Falkland Islands (Malvinas) and South Georgia and the South Sandwich Islands.

6. In a Christmas radio message, Prime Minister Tony Blair stated that the United Kingdom would continue to discuss with Argentina issues of mutual concern and benefit to the Falkland Islands (Malvinas), building on meetings over shared fish stocks, the continental shelf and de-mining, but that there was no lessening of the Government's commitment to the islanders' security, sovereignty and self-

determination. He said that position would not change unless the islanders decided otherwise.

7. In a letter dated 3 January 2005 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/59/662), the Permanent Representative transmitted the text of a statement issued on that date by the Government of Argentina "on the occasion of another anniversary of the illegitimate British occupation of the Malvinas Islands".

III. Mine clearance

8. On 26 and 27 October 2004, the second meeting of the Joint Working Party for carrying out a feasibility study on the clearance of landmines in the Falkland Islands (Malvinas) was held in London with the participation of diplomats and experts from the United Kingdom and Argentina. The meeting took place in accordance with the understanding recorded in the Exchange of Notes of 11 October 2001, and is covered by the formula on sovereignty included in those notes. The Joint Working Party considered the overall aims of the feasibility study, its technical and financial aspects, as well as management issues. In that respect, it appointed new project managers. Understandings were reached on a number of practical measures. It also agreed to perform several tasks in fulfilment of shared commitments to carry out the study. The Joint Working Party will meet next during the second quarter of 2005, in Buenos Aires.

9. In February 2005, it was reported that a fact-finding team composed of representatives of the United Kingdom Ministry of Defence and the Department for International Development and Landmine Action, a not-for-profit company, had spent six days in the Falkland Islands (Malvinas). The team visited Stanley and the West Falkland settlements of Port Howard and Fox Bay. Landmine Action has indicated that 16,600 mines remain in the Islands, distributed in 101 minefields. The team will submit a report to the United Kingdom Government on its findings.[2]

IV. Economic conditions

A. General

10. According to the administering Power, the pace of economic development has accelerated dramatically since 1982. In 1984, the Falkland Islands Development Corporation was formed to encourage the development of a private sector. This rapid growth resulted initially from the influx of British Government aid, but subsequently from the development of fisheries. However, new challenges have emerged as Government revenue has been maximized and is fully committed. The period of government-expenditure-driven economic growth is drawing to a close, making future growth dependent on the growth of the private sector.

B. Public finance

11. The Territory's financial year runs from 1 July to 30 June. For 2003/04, the original estimate for total revenue was 50.5 million British pounds (£), of which

more than half (£25.8 million) came from fisheries. Other sources of revenue were taxation (£5.1 million), investment income (£4.1 million) and revenue derived from public works (£4.4 million). During the same period, the original estimate for total expenditure was £43.9 million.

12. As previously reported, the Legislative Council approved, in 2003, a bill implementing recommendations for a tax policy review. The new income tax rates, which came into effect on 1 January 2004, changed and simplified the system from a three-tier to a two-tier system. The first £12,000 of chargeable income will be taxed at 20 per cent and the remainder at 25 per cent, while most of the existing income tax deductions are being removed. Significant changes were also made for corporate taxpayers, including: lowering of rates in order to bring them into line with income tax rates; abolition of the advance corporation tax; improvements for group relief; abolition of initial depreciation allowances; and carry back of losses.[3]

C. Agriculture, land tenure and livestock

13. Detailed information on agriculture, land tenure and livestock is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11). According to the administering Power, there are 85 farms in the Falkland Islands (Malvinas). Direct subsidies to farmers have virtually ended and have been replaced by improvement programmes. These include pasture improvement grants and support for the genetic modification of sheep and cattle in order to improve the quality of wool and meat as well as agricultural improvement and business schemes on offer by the Department of Agriculture. A business plan for the Department, which is supported by farmers, emphasizes the need for farms to be managed as profitable businesses. The agricultural budget for 2004/05 is £1.1 million.

D. Fisheries

14. Loligo and Illex squid are the mainstay of the territorial fisheries and economy. In addition to the two squid species, a number of finfish are targeted, including blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fishery. In late 2003, the Fisheries Committee met to consider the development of a new fisheries policy and the eligibility of those who could hold fishing rights under the new arrangement for the establishment of long-term rights in the various Falkland Islands (Malvinas) fisheries.[4]

15. The South Atlantic Fisheries Commission, which was established by Argentina and the United Kingdom through the Joint Statement of 28 November 1990, has met regularly and worked without interruption since then for the conservation of fisheries resources in that area.

16. On 1 and 2 July 2004, the 25th meeting of the South Atlantic Fisheries Commission was held in London. The British delegation was led by Tony Crombie, the head of the Overseas Territories Department of the Foreign and Commonwealth Office. The Argentine delegation was led by Ambassador Santos Goñi, Head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs. In a joint press statement, both delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and

the surrounding maritime areas, contained in paragraph 2 of the joint declaration issued in Madrid on 19 October 1989, applied to the meeting and its results.

17. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 22nd meeting, held in London on 28 and 29 June 2004. The Commission welcomed the continuing cooperation between the National Institute for Fisheries Research and Development and the Imperial College, which contributed to the Commission's understanding of the scientific aspects of the fisheries of significant species. It was pleased that both institutions had agreed to continue with the implementation of joint projects.

18. Both delegations reaffirmed the importance they attached to ensuring the sustainability of fish stocks, and reiterated the commitment of both Governments to the conservation of the fish and squid stocks of the South-West Atlantic. They recommended to both Governments the continuation of further scientific research in order to achieve greater understanding of the most significant off-shore species in the area.

19. The Commission noted the serious concerns raised by the Scientific Subcommittee concerning the status of the Illex stock, particularly that recruitment and catches in 2004 were the lowest on record. It also noted the concerns of the Subcommittee about the level of uncertainty associated with the estimate of spawning stock biomass of Illex remaining at the end of the 2004 season. Given those indicators and concerns, the Commission agreed to recommend to both Governments that a very precautionary approach be taken to the conservation of the species.

20. The Commission also agreed to recommend to both Governments the holding of a two-day workshop on Illex before the next meeting of the Subcommittee, in order to address the concerns held by both delegations about the status of the Illex fishery, including considering possible changes to the early warning system, within a more precautionary framework. It also agreed to recommend the undertaking of a joint survey to assess recruitment of the Illex stock in February 2005.

21. Both delegations stressed their support for enhancements to the early warning system. The exchange of real-time data on fishing operations remained central to the operation of the system. The Commission agreed to recommend to both Governments that, until such time as agreement is reached on any increased escapement target, every effort be made to maintain the level of Illex spawning stock biomass at the end of the fishing season above the previously agreed level, in order to ensure stock sustainability.

22. Recalling the Commission's concerns about the importance of achieving sustainability in the southern blue whiting fishery, the Commission noted that current analysis indicated that the decline in stock size had been arrested. However, those results are subject to a considerable level of uncertainty, and the Scientific Subcommittee had therefore recommended that the catches of southern blue whiting in the South-West Atlantic should remain at 55,000 tons to maintain the stock size. Given the need to maintain a precautionary approach to this important fishery, the Commission agreed that further scientific investigation was required to clarify uncertainty in the status of this stock.

23. The Commission noted the ongoing research on southern blue whiting and the information gained from the two-vessel survey of that species. The Commission

agreed to recommend that a joint survey on the species start in September 2005 and that, in further discussion on the species, the Scientific Subcommission should take account of the findings of the survey and provide recommendations to the Commission at its next meeting.

24. The two delegations exchanged views on further issues relating to cooperation on fisheries conservation. They agreed that the timely establishment of a multilateral agreement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic.

25. Both delegations referred to practical measures needed to prevent poaching, given that it can undermine conservation of fish stocks in the South-West Atlantic. They agreed to continue to enhance efforts to achieve those objectives in a coordinated way.

26. The Argentine delegation reiterated its concern about the situation created by the British decision with respect to the area described in the annex to the Joint Statement of 28 November 1990 and to the area west of it. It expressed the hope of the Argentine Government that the matter be resolved. The British delegation reiterated its position.

27. The two parties undertook to maintain contact through diplomatic channels, with a view to agreeing on the place and date of the next meeting of the Commission. That meeting would be preceded, as usual, by a meeting of the Scientific Subcommittee.

28. On 9 and 10 December 2004, the 26th meeting of the South Atlantic Fisheries Commission was held in Buenos Aires. The Argentine delegation was led by Ambassador Santos Goñi, head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs, and the British delegation was led by Tony Crombie, the head of the Overseas Territories Department of the Foreign and Commonwealth Office.

29. The Argentine and British delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, contained in paragraph 2 of the Joint Declaration issued in Madrid on 19 October 1989, applied to that meeting and its results.

30. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 23rd meeting, held in Mar del Plata, Argentina, on 6 and 7 December 2004. The Commission welcomed the continuing cooperation, in the framework of the Subcommittee, between the scientists from the National Institute for Fisheries Research and Development and the Imperial College, which contributed to the Commission's understanding of the scientific aspects of the fisheries of significant species. It was pleased that both institutions had agreed to continue with the implementation of joint projects.

31. Both delegations reaffirmed the importance they attach to ensuring the sustainability of fish stocks and reiterated the commitment of both Governments to the conservation of the fish and squid stocks of the South-West Atlantic. They recommended to both Governments the continuation of further scientific research in order to achieve greater understanding of the most significant off-shore species in the area.

32. The Commission noted the serious concerns raised in the Subcommittee regarding the status of the Illex stock, in particular the fact that recruitment and catches in 2004 were the lowest on record. It also noted that the level of spawning biomass of Illex remaining at the end of the 2004 season was also the lowest observed. Furthermore, it was noted that prevailing oceanographic conditions appeared to be unfavourable for recruitment. In the light of the above, the Commission agreed to recommend to both Governments that a precautionary approach be taken in order to ensure the conservation of the species.

33. The Commission endorsed the recommendations of the Subcommittee that the subsequent escapement target for an enhanced early warning system should be 90,000 to 95,000 tons of the spawning stock biomass present in the fishery in the last week of April, the midpoint of the period of maximum reproduction. The Commission agreed to recommend this enhancement of the early warning system to both Governments. It is significantly more precautionary compared to the target of 40,000 tons for the spawning stock biomass at the end of the season, including a much higher level of spawning stock biomass during the period of peak reproductive activity of the stock.

34. The Commission further recommended that a joint survey to assess recruitment of the Illex stock should take place in February 2005.

35. Recalling the Commission's concerns about the importance of achieving sustainability in the southern blue whiting fishery, the Commission noted that current analysis indicated that the decline in stock size had been arrested. Those results were, however, subject to a considerable level of uncertainty, and the Subcommittee had therefore recommended that, until new scientific evidence is presented, the catches of southern blue whiting in the South-West Atlantic remain at a level of about 55,000 tons in order to maintain the stock size. Given the need to maintain a precautionary approach to this important fishery, the Commission agreed that further scientific investigation was required to clarify uncertainty in the status of the stock.

36. The Commission agreed to recommend that a two-day workshop on this species take place before the next Subcommittee meeting to discuss the objectives and the design of the future southern blue whiting survey and possible alternative methods of stock assessment.

37. The two delegations exchanged views on further issues relating to cooperation on fisheries conservation. While concurring that the timely establishment of a multilateral agreement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic, they recognized that, for the time being, progress on the matter is constrained by wider considerations.

38. With regard to high seas fisheries, both delegations referred to the need to continue exchanging data and the importance of doing so in a timely way.

39. Both delegations referred to practical measures needed to prevent poaching, given that it can undermine the conservation of fish stocks in the South-West Atlantic. They agreed to continue to enhance efforts to achieve those objectives in a coordinated way.

40. The Argentine delegation reiterated its concern regarding the situation created by the British decision on the area described in the annex to the Joint Statement of 28 November 1990 and the area to the west of it. It expressed the hope of the Argentine Government that the matter be resolved. The British delegation reiterated its position.

41. The two parties stated that they would maintain contacts through diplomatic channels, with a view to agreeing on the place and date of the next meeting of the Commission. That meeting would be preceded, as usual, by a meeting of the Scientific Subcommittee.

E. Tourism

42. There has been significant expansion of the Falkland Islands (Malvinas) tourist industry in recent years. The United Kingdom is currently the principal market, but the Falkland Islands Tourist Board, a department of the Falkland Islands Development Corporation, has focused efforts on developing new contacts with tour operators in the United States and Europe. According to the administering Power, land-based tourists, interested principally in wildlife and birdwatching, are the major source of tourist income, estimated at £0.4 million, with cruise vessels bringing a further £0.2 million.

F. Transport, communications and other basic facilities

43. Detailed information on transport, communications and other basic facilities is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

44. During the period under review, LanChile continued to provide regular round-trip service from Punta Arenas (Chile) to the Falkland Islands (Malvinas), including two monthly stop-overs in Rio Gallegos (Argentina), one in each direction, in accordance with the provisions of the Joint Statement of 14 July 1999 between Argentina and the United Kingdom. That service is carried out in the framework of commercial air agreements between Argentina and Chile. The Exchange of Notes Agreement of 23 February 2001, between Argentina and the United Kingdom, placed private navigation and private aerial navigation between Argentina and the Falkland Islands (Malvinas) under a formula of sovereignty. Thus, Argentina considers and authorizes non-regular flights to the Falklands (Malvinas) on a case-by-case basis.

45. As from 3 November 2003, Argentina does not authorize non-regular flights between third countries and the Falkland Islands (Malvinas) by any company flying under a third country flag. That position does not affect the continuation of the above-mentioned regular service and does not apply to emergency situations or health evacuation flights.

46. In late 2003 and the first quarter of 2004, Argentina and the United Kingdom exchanged views on the Argentine proposal aimed at the establishment of direct regular air service between Argentina and the Falkland Islands (Malvinas). The United Kingdom stated that any arrangements would need to be acceptable to the

islanders. No agreement between Argentina and the United Kingdom has been reported to date.

G. Banking

47. Both British and local coinage is used, together with local currency notes. There is parity between United Kingdom and Falkland Islands (Malvinas) currency. The Standard Chartered Bank of the United Kingdom opened a branch in Stanley in December 1983.

H. Public works

48. The Public Works Department of the territorial Government is responsible for road-building projects, municipal services, construction projects and supplying water and electricity to the residents of Stanley. Recent projects have included an extension of Stanley Infant/Junior School and the building of a new abattoir. The total length of roads outside Stanley has continued to increase and is now 660 kilometres, increasing by 50 kilometres per year.

V. Social conditions

A. General

49. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms has been extended to the Falkland Islands (Malvinas) by the administering Power. Further, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under these instruments. The common law of England applies in the Falkland Islands (Malvinas), except insofar as it is inconsistent with any enactment of the law applying to the Falkland Islands (Malvinas). There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas), with the agreement of the territorial Government.

50. According to the Government of Argentina, those declarations by the United Kingdom regarding the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands were rejected by the Government of Argentina by its declarations of 3 October 1983 and 8 August 1986 on the International Covenant on Economic, Social and Cultural Rights, of 3 October 1983, 8 August 1986 and 5 October 2000 on the International Covenant on Civil and Political Rights, and of 4 April 1989 on the Convention on the Elimination of All Forms of Discrimination against Women.

B. Public health

51. The general state of health in the Falkland Islands (Malvinas) is good. There is no private system of medical care. Medical and dental treatments and prescription drugs are free to all residents and to United Kingdom citizens. All medical services are based at the King Edward VII Memorial Hospital in Stanley, which provides a full range of primary-care services to the civilian population, military personnel stationed in Stanley and foreign fishing fleets around the Islands. In addition, there is a visiting medical service to outlying farm settlements. The Hospital has facilities to deal with acute medical and surgical conditions. It has 28 beds, including two maternity and two intensive care beds. Cases requiring specialist attention are first stabilized and then evacuated to the United Kingdom or Chile, or in emergencies, to Uruguay. The estimated expenditure for health and social services in 2004/05 was £5.4 million.

C. Social security and welfare

52. The Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and employees between the ages of 17 and 64. Implementation of the Falkland Islands Pension Scheme Ordinance 1997 commenced during 1998. That scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals within the Falkland Islands (Malvinas) can make contributions under employer-employee agreements or voluntarily during their working lives and receive a pension upon retirement. A system of social welfare grants and pensions is in operation to deal with hardship and disability cases. The estimated social payments for 2002/03 were £34,050.

D. Education

53. Education in the Falkland Islands (Malvinas) is free and compulsory for all children between the ages of 5 and 16. The local Government provides staff, equipment and supplies for education, has a primary and a secondary school in Stanley and operates four small settlement schools on large farms. In the rural areas, younger children either attend the settlement schools or are visited by one of the six travelling teachers for two weeks out of every six. There are also radio and telephone lessons available. Students above the age of 16 who qualify in exams are funded for studies in the United Kingdom. In 2004, there were 378 schoolchildren being educated in the Falkland Islands (Malvinas). Expenditure for education for 2003/04 was estimated at £4.4 million.

VI. Participation in international organizations and arrangements

54. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Representatives of the Government have participated, as members of

the United Kingdom delegation, in discussions on matters affecting their interests, such as those leading to the Joint Statement of 14 July 1999.

VII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

55. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 9th meeting, on 18 June 2004. At that meeting, the Special Committee decided to accede to the request of Argentina, Brazil, Paraguay, Peru and Uruguay to participate in the consideration of the item. At the same meeting, in accordance with a previous decision taken by the Special Committee at its 7th meeting, statements were made by Councillors Michael Summers and Roger Edwards of the Legislative Council of the Falkland Islands (Malvinas). Alejandro Betts and Maria Angelica Vernet also made statements (see A/AC.109/2004/SR.9).

56. At the same meeting, the representative of Chile, on behalf of the Bolivarian Republic of Venezuela, Bolivia, Chile and Cuba, introduced a draft resolution on the item (A/AC.109/2004/L.8). The draft resolution reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom. It requested both parties to consolidate the current process of dialogue and cooperation through the resumption of negotiations in order to find a solution, in accordance with the provisions of the relevant General Assembly resolutions.

57. At the same meeting, the Minister for Foreign Affairs, International Trade and Worship of Argentina, Rafael Bielsa, stated, inter alia:

> "On 3 January 1833, British forces expelled the Argentine inhabitants and authorities established in the Malvinas Islands and began their illegal occupation, creating a special colonial situation unlike any other. This is confirmed in numerous resolutions of the General Assembly and of this Committee.
>
> In this respect, I should like to recall that 40 years ago, this Committee laid the foundations for the doctrine later reflected in General Assembly resolution 2065 (XX), which establishes that the Malvinas question refers to the dispute between the Argentine Republic and the United Kingdom concerning sovereignty over the Islands, which should be resolved through negotiations, bearing in mind the provisions and objectives of the Charter and of General Assembly resolution 1514 (XV) and the interests of the population of the Islands.
>
> General Assembly resolution 2065 (XX) clearly specifies, first, that there is a dispute concerning sovereignty over the Malvinas Islands; second, that in that dispute there are only two parties: the Governments of the Argentine Republic and of the United Kingdom; third, that its solution must be found through negotiations between the two Governments, as the only way to put an end to the colonial situation; and fourth, that both parties, in the search for a

solution, must take into account the interests of the inhabitants of the Malvinas Islands, which therefore excludes the application of the principle of self-determination.

It should be recalled that in 1985 the General Assembly took a clear position in that regard when it rejected two British amendments that aimed to include that principle in the relevant draft resolution.

I should like to stress that paragraph 6 of resolution 1514 (XV) states that 'any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country' — in this case, my country — 'is incompatible with the purposes and principles of the Charter of the United Nations'. Thus, in the question of the Malvinas, the violation through a nineteenth century imperialist act of the sovereignty and territorial integrity of an independent republic, Argentina, recognized by Great Britain itself, makes the principle of territorial integrity take precedence over the principle of self-determination.

It should be borne in mind that the United Kingdom, since committing the outrage of expelling the Argentine authorities, has excluded mainland Argentine inhabitants from the islands, establishing in their place a population of British origin.

To maintain that the inhabitants of the islands have the right to self-determination would make them the arbiters of a territorial dispute to which the country that has settled them is a party. In other words, the colonial Power would validate its own usurpation and justify itself.

The sovereignty claim over the islands is a matter of deep concern to the Argentine nation and was thus enshrined in the national Constitution in 1994. All Argentines are firmly committed to a peaceful settlement of this dispute. In his inaugural address to the national Congress on 1 March 2004, President Néstor Kirchner stressed that the sovereignty claim over the Malvinas Islands is a matter of the national interest and is the subject of a set of State policies that everyone must defend.

This Committee is aware of the constant desire of the Argentine Government to find a just, peaceful and lasting solution to this problem, which is a priority of my country's foreign policy. The resolutions of this forum, as well as those of the General Assembly, urge the parties to resume sovereignty negotiations without delay.

Our country has clearly indicated its willingness to negotiate. Unfortunately, the United Kingdom persists in ignoring these appeals by the international community. Its obstinacy in delaying negotiations on the question of sovereignty over the islands will not change their situation, on which this Committee, the General Assembly and the Organization of American States have all taken a position.

It is therefore necessary for both parties to the dispute to resume sovereignty negotiations as soon as possible. At the same time, it is equally important for the members of this Committee to continue to support this goal.

Since 1989, both countries have reached provisional understandings under the sovereignty formula regarding practical aspects of the South

Atlantic. These understandings must not be interpreted as acceptance by Argentina of an alleged status quo in the region, however, and are not a substitute for a final solution to the dispute.

My Government regards as inadmissible the unilateral British actions in the disputed area, which are in violation of General Assembly resolution 31/49. That resolution calls upon the parties to refrain from introducing unilateral modifications in the situation while the islands are going through the process of decolonization.

Despite this, on more than one occasion the United Kingdom has failed to respect the terms agreed upon with the Argentine Republic, which does not accept, and has protested against and rejected, alleged exercises of British jurisdiction in the disputed areas.

These include, in the past year, fisheries police activity in the South Atlantic from and outside the disputed area, seismic hydrocarbon surveying activities, and the granting of licences for the exploration and exploitation of minerals and related aeromagnetic surveying activities.

Along with these actions, there are the continued exclusion of mainland Argentina from direct contacts and communications with the Malvinas Islands, British reluctance to proceed with confidence-building measures in the military sphere, the continued sale of illegal fishing licences in the Argentine exclusive economic zone and the persistent presence and recent upgrading of the British military base in the Malvinas Islands, extending its operational capacity beyond the disputed area, which my Government has brought to the attention of the United Nations, the Organization of American States and the countries of the region.

In addition, there have been attempts to achieve a presence for the islands and their illegal representatives in international organizations and events, as well as procedures for the extension of international conventions to the disputed area."

58. At the same meeting, the representatives of the Bolivarian Republic of Venezuela, Brazil (on behalf of the Rio Group), China, the Congo, Cuba, Ethiopia, Fiji, Grenada, Indonesia, Paraguay (on behalf of the MERCOSUR countries, and Bolivia, Chile and Peru), Sierra Leone, the Syrian Arab Republic, Tunisia and Uruguay, made statements (for the summary of the statements see A/AC.109/2004/SR.9).

B. Position of the Government of Argentina

59. On 21 September 2004, the President of Argentina addressed the General Assembly. During the course of his statement, he said:

"International disputes must be settled through peaceful means. The United Nations has established, through various resolutions of the General Assembly and the Special Committee, that the question of the Malvinas Islands, South Georgia and the South Sandwich islands is a special colonial situation which must be resolved through bilateral negotiations between my country and the United Kingdom.

The Special Committee has expressed itself repeatedly on this issue, and we greatly appreciate its work to promote the resolution of this question.

We reaffirm once again the constant willingness of my country to reach a just, peaceful and lasting solution to this sovereignty dispute, which is an issue of great importance for the people of Argentina.

We urge the United Kingdom to comply promptly with the international community's appeal and to resume negotiations."

C. Position of the administering Power

60. By a letter dated 30 September 2004, addressed to the President of the General Assembly (A/59/406), the Permanent Representative of the United Kingdom stated the position of his Government in reply to the remarks of the President of Argentina in his address to the General Assembly on 21 September 2004:

"The British Government attaches great importance to the principle of self-determination as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.

"The elected representatives of the Falkland Islands once again expressed their own views clearly when they visited the United Nations for this year's debate in the Committee of Twenty-four. They asked the Committee to recognize that they, like any other people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not wish for any change in the status of the Islands.

"There can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the Islanders so wish.

"The United Kingdom has no doubts about its sovereignty over the Falkland Islands."

D. Contributions by other Member States

61. On 4 October 2004, during the debate on decolonization issues at the Fourth Committee of the General Assembly, several representatives referred to the question of the Falkland Islands (Malvinas). The representative of Brazil, speaking on behalf of the States members of the Rio Group (Argentina, the Bolivarian Republic of Venezuela, Bolivia, Brazil, Colombia, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay), said that the Rio Group considered that it was necessary for Argentina and the United Kingdom to resume negotiations in order to find a just, peaceful and definitive solution to the sovereignty dispute over the Falkland Islands (Malvinas), in accordance with the relevant resolutions and declarations of the General Assembly, the Special Committee on Decolonization and the Organization of American States. The representative of Paraguay, speaking on behalf of the States members and associated States of MERCOSUR (Argentina, Bolivia, Brazil, Chile, Paraguay, Peru and Uruguay), expressed hope for the resumption of negotiations between Argentina and the United Kingdom. He also

reiterated the terms of the declarations on the question of the Falkland Islands (Malvinas) adopted by the meetings of the Presidents of the MERCOSUR countries and its associated States (Bolivia and Chile) in 1996, at Potrero de los Funes, and in 1999, at Asuncion, supporting the legitimate rights of Argentina in the sovereignty dispute over the Falkland Islands (Malvinas). The representative of the Bolivarian Republic of Venezuela and Cuba reiterated the support of their Governments for the legitimate right of Argentina in the sovereignty dispute over the Falkland Islands (Malvinas).

62. The representative of the United Kingdom, in exercise of the right of reply, said that his country's position had been set out in detail in document A/59/406 (see para. 60 above).

E. Action by the General Assembly

63. By adopting resolution 58/316, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present report, there had been no such notification by a Member State to the fifty-ninth session of the General Assembly.

F. Consideration by other intergovernmental organizations and international forums

64. On 8 June 2004, the General Assembly of the Organization of American States (OAS), adopted a Declaration on the Question of the Malvinas Islands (Falkland Islands) (resolution AG/DEC.38 (XXXIV-O/04)), in which, inter alia, it welcomed the reaffirmation of the will of the Argentine Government to continue exploring all possible avenues towards a peaceful settlement of the dispute and its constructive approach towards the inhabitants of the Malvinas Islands. It reaffirmed the need for the Government of Argentina and the United Kingdom to begin negotiations on the sovereignty dispute as soon as possible, in order to find a peaceful solution to that protracted controversy. The Assembly of OAS decided to continue to examine the question of the Malvinas Islands at its subsequent sessions, until a definitive settlement has been reached thereon.

65. Speaking before the OAS Assembly, the Minister for Foreign Affairs, International Trade and Worship of Argentina stated:

> [...] "The 'question of the Malvinas Islands', which this Organization has declared to be of permanent interest to the hemisphere, needs to be dealt with and discussed until a definitive solution is achieved. The Governments of the Argentine Republic and the United Kingdom must resume negotiations on sovereignty with a view to achieving a peaceful settlement of the dispute.
>
> ... This Assembly is aware of the continued willingness of the Argentine Government to reach a just, peaceful and lasting solution to this pressing issue regarding my country's foreign policy. The statements made in this forum and the resolutions of the United Nations General Assembly call upon the parties to resume the negotiations on sovereignty without delay.

> My country has demonstrated clearly and repeatedly its willingness to resume negotiations on sovereignty, but it has not been possible to restart them because of the United Kingdom's refusal to comply with the resolutions of the United Nations and the statements of the Organization of American States in this regard ..."

66. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) by OAS was stated in a note verbale dated 4 June 2004 from the Permanent Observer Mission of the United Kingdom to OAS addressed to the Chairman of the Permanent Council of OAS. Referring to the Declaration on the Question of the Falkland Islands (Malvinas) adopted by the General Assembly of the OAS, the Permanent Observer stated that:

> "The United Kingdom's position was last set out in detail by the United Kingdom's Permanent Representative to the United Nations, Sir Emyr Jones Parry, in a written right of reply dated 30 September 2003 to the statement made by President Nestor Carlos Kirchner of the Argentine Republic in the United Nations General Assembly on 25 September 2003. Our position was also set out in my letter of 12 February 2004 to the Chairman of the Permanent Council in Washington. I am confident that this matter will not inhibit fruitful cooperation on the remaining issues on the agenda of the thirty-fourth regular session of the General Assembly of the Organization of American States.
>
> "The United Kingdom has no doubt about its sovereignty over the Falkland Islands, South Georgia and South Sandwich Islands and their surrounding maritime areas."

67. On 20 November 2004, the Heads of State and Government of the Ibero-American States, meeting at the fourteenth Ibero-American Summit in Costa Rica, adopted a special declaration on the Malvinas Islands:

> "The Heads of State and Government of the Ibero-American countries, meeting in the city of San José de Costa Rica on the occasion of the fourteenth Ibero-American summit, reaffirm the need for the Governments of the Argentine Republic and of the United Kingdom of Great Britain and Northern Ireland to resume, as soon as possible, the negotiations aimed at finding an early solution to the sovereignty dispute relating to the question of the Malvinas Islands, in accordance with the resolutions of the United Nations and the Organization of American States and the provisions and objectives of the Charter of the United Nations, including the principle of territorial integrity."

68. On 5 November 2004, the Presidents of the Rio Group, meeting in Rio de Janeiro, issued a joint statement of the Presidents of the Rio Group on the Malvinas Islands:

> "We reaffirm our support for the legitimate rights of the Argentine Republic in the sovereignty dispute relating to the question of the Malvinas Islands. We also note the interest of the region in an early solution to the prolonged sovereignty dispute over those territories between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland, in accordance with the resolutions and declarations of the United Nations and the Organization of American States."

69. Declarations on the question of the Falkland Islands (Malvinas) were also adopted by the Ministerial Council of the Latin American Integration Association at its meeting held at Montevideo, on 18 October 2004, and at the third South American Summit of the South American Community of Nations, held in Cuzco, Peru, on 8 December 2004.

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations on 12 January 2004, as well as from official documents of the Government of Argentina.

[2] MercoPress-Falklands Malvinas and South Atlantic News, 23 February 2005.

[3] *Penguin News*, 24 December 2003.

[4] Ibid., 24 October and 7 November 2003.